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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

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VSR

DOCKET NO. T-03794A-99-0592

DECISION NO. 63370

ORDER

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF
STARTEC GLOBAL LICENSING COMPANY
FOR A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
INTRASTATE TELECOMMUNICATIONS
SERVICES AS A RESELLER, EXCEPT LOCAL
EXCHANGE SERVICES

Open Meeting
February 13 and 14, 2001
Phoenix, Arizona

BY THE COMMISSION:DISCUSSION

On August 29, 2000, the Arizona Court of Appeals, Division One ("Court") issued its Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the Arizona Constitution requires the Arizona Corporation Commission ("Commission") to "determine fair value rate base for all public service corporations in Arizona prior to setting their rates and charges."

On September 12, 2000, the Commission ordered the Hearing Division to open a new generic docket to obtain comments on procedures to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. The Commission also expressed concerns that the cost and complexity of fair value rate base ("FVRB") determinations must not offend the Telecommunications Act of 1996.

On October 26, 2000, the Commission filed a Petition for Review to the Arizona Supreme Court. However, at this time we are concerned that the Opinion might create uncertainty in the competitive telecommunications industry during the review period.

Based on the above, we will approve the application of Startec Global Licensing Company ("Startec" or "Applicant") at this time with the understanding that it may subsequently have to be

1 amended to comply with the law after the exhaustion of all appeals.

2 Having considered the entire record herein and being fully advised in the premises, the
3 Commission finds, concludes, and orders that:

4 **FINDINGS OF FACT**

5 1. On October 19, 1999, Startec filed with Docket Control of the Commission an
6 application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive
7 resold intrastate telecommunications services within the State of Arizona.

8 2. On March 24, 2000, Startec filed Affidavits of Publication indicating compliance with
9 the Commission's notice requirements.

10 3. On August 18, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff
11 Report recommending denial of the application due to Startec's failure to respond to Staff's data
12 requests.

13 4. On September 7, 2000, Startec filed information responding to Staff's data requests.

14 5. On September 22, 2000, Staff filed a new Staff Report recommending approval of the
15 application.

16 6. On September 26, 2000, a Procedural Order was issued requiring Startec to file FVRB
17 information by October 24, 2000.

18 7. On October 24, 2000, Startec filed a Response to the September 26, 2000 Procedural
19 Order indicating that FVRB information requirements were inapplicable to Startec since they are a
20 reseller of telecommunications services and have no facilities in Arizona.

21 8. On November 16, 2000, Staff filed its FVRB Comments indicating that the Response
22 of Startec was inadequate.

23 9. On November 21, 2000, a Procedural Order was issued requiring Startec to file
24 additional FVRB information and extending the time frame for processing the application to February
25 21, 2001.

26 10. On December 12, 2000, Startec filed additional FVRB information.

27 11. In Decision No. 58926 (December 22, 1994), the Commission found that resold
28 telecommunications providers ("resellers") were public service corporations subject to the

1 jurisdiction of the Commission.

2 12. Applicant is an Delaware corporation, authorized to do business in Arizona since
3 1998.

4 13. Applicant is a switchless reseller, which purchases telecommunications services from
5 a variety of carriers.

6 14. In its September 22, 2000 Staff Report, Staff stated that Startec provided its Form 10-
7 Q financial statements for the three months ended March 31, 2000. These financial statements list
8 assets of \$309 million, shareholders' equity of \$20.1 million, and a net loss of \$12.1 million on
9 revenues of \$77.3 million. Based on the foregoing, Staff believes that Applicant lacks adequate
10 financial resources to be allowed to charge customers any prepayments, advances, or deposits without
11 either establishing an escrow account or posting a surety bond to cover such prepayments, advances,
12 or deposits. The Applicant stated in its application that it does not charge its customers for any
13 prepayments, advances or deposits. If at some future date, the Applicant wants to charge customers
14 any prepayments, advances or deposits, it must file information with the Commission that
15 demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the
16 information and the Commission will make a determination concerning the Applicant's financial
17 viability and whether customer prepayments, advances or deposits should be allowed. Additionally,
18 Staff believes that if the Applicant experiences financial difficulty, there should be minimal impact to
19 its customers. Customers are able to dial another reseller or facilities-based provider to switch to
20 another company.

21 15. The September 22, 2000 Staff Report also stated that Applicant has no market power
22 and the reasonableness of its rates would be evaluated in a market with numerous competitors.

23 16. Staff recommended approval of the application subject to the following conditions:

24 (a) The Applicant should be ordered to comply with all Commission rules, orders,
25 and other requirements relevant to the provision of intrastate telecommunications
26 service;

27 (b) The Applicant should be ordered to maintain its accounts and records as
28 required by the Commission;

1 (c) The Applicant should be ordered to file with the Commission all financial and
2 other reports that the Commission may require, and in a form and at such times as the
Commission may designate;

3 (d) The Applicant should be ordered to maintain on file with the Commission all
4 current tariffs and rates, and any service standards that the Commission may require;

5 (e) The Applicant should be ordered to comply with the Commission's rules and
6 modify its tariffs to conform to these rules if it is determined that there is a conflict
between the Applicant's tariffs and the Commission's rules;

7 (f) The Applicant should be ordered to cooperate with Commission investigations
8 of customers complaints;

9 (g) The Applicant should be ordered to participate in and contribute to a universal
10 service fund, as required by the Commission;

11 (h) The Applicant should be ordered to notify the Commission immediately upon
changes to the Applicant's address or telephone number;

12 (i) The Applicant's intrastate interexchange service offerings should be classified
13 as competitive;

14 (j) The Applicant's competitive services should be priced at the rates proposed by
15 the Applicant in its most recently filed tariffs. The maximum rates for these services
16 should be the maximum rates proposed by the Applicant in its proposed tariffs. The
minimum rates for the Applicant's competitive services should be the Applicant's total
service long run incremental costs of providing those services;

17 (k) In the event that the Applicant states only one rate in its proposed tariff for a
18 competitive service, the rate stated should be the effective (actual) price to be charged
19 for the service as well as the service's maximum rate.

20 17. Staff also recommended that the Applicant file its tariffs within 30 days of an Order in
21 this matter, and in accordance with the Decision.

22 18. No exceptions were filed to the Staff Report, nor did any party request that a hearing
23 be set.

24 CONCLUSIONS OF LAW

25 1. Applicant is a public service corporation within the meaning of Article XV of the
26 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

27 2. The Commission has jurisdiction over Applicant and the subject matter of the
28 application.

1 3. Notice of the application was given in accordance with the law.

2 4. Applicant's provision of resold intrastate telecommunications services is in the public
3 interest.

4 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
5 intrastate telecommunications services as a reseller in Arizona.

6 6. Staff's recommendations in Findings of Fact No. 14, 16, and 17 are reasonable and
7 should be adopted.

8 **ORDER**

9 IT IS THEREFORE ORDERED that the application of Startec Global Licensing Company
10 for a Certificate of Convenience and Necessity for authority to provide competitive intrastate
11 telecommunications services, except local exchange services, as a reseller shall be and the same is
12 hereby granted, except that Startec Global Licensing Company shall not be authorized to charge
13 customers any prepayments, advances, or deposits. In the future, if Startec Global Licensing
14 Company desires to initiate such charges, it must file information with the Commission that
15 demonstrates the Applicant's financial viability. Staff shall review the information provided and file
16 its recommendation concerning financial viability within thirty (30) days of receipt of the financial
17 information, for Commission approval.

18 IT IS FURTHER ORDERED that Startec Global Licensing Company shall file the following
19 FVRB information within 18 months of the date that it first provides service. The FVRB shall
20 include a dollar amount representing the total revenue for the first twelve months of
21 telecommunications service provided to Arizona customers by Startec Global Licensing Company
22 following certification, adjusted to reflect the maximum rates Startec Global Licensing Company
23 requests in its tariff. This adjusted total revenue figure could be calculated as the number of units
24 sold for all services offered times the maximum charge per unit. Startec Global Licensing Company
25 shall also file FVRB information detailing the total actual operating expenses for the first twelve
26 months of telecommunications service provided to Arizona customers by Startec Global Licensing
27 Company following certification Startec Global Licensing Company shall also file FVRB
28 information which includes a description and value of all assets, including plant, equipment, and

1 office supplies, to be used to provide telecommunications service to Arizona customers for the first
2 twelve months following Startec Global Licensing Company's certification.

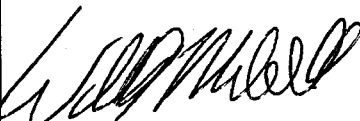
3 IT IS FURTHER ORDERED that Startec Global Licensing Company shall comply with
4 Staff's recommendations as set forth in Findings of Fact No. 14, 16, and 17.

5 IT IS FURTHER ORDERED that within 30 days of an Order in this matter Startec Global
6 Licensing Company shall notify the Compliance Section of the Arizona Corporation Commission of
7 the date in which it will begin or has begun providing service to Arizona customers.

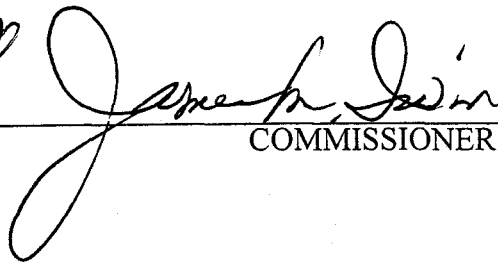
8 IT IS FURTHER ORDERED that Startec Global Licensing Company shall file its tariffs
9 within 30 days of an Order in this matter.

10 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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CHAIRMAN

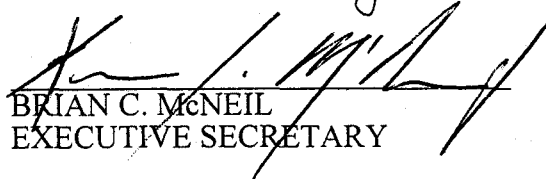
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COMMISSIONER

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COMMISSIONER

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16 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
17 Secretary of the Arizona Corporation Commission, have
18 hereunto set my hand and caused the official seal of the
19 Commission to be affixed at the Capitol, in the City of Phoenix,
20 this 16th day of February 2001.

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22 BRIAN C. McNEIL
23 EXECUTIVE SECRETARY

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22 DISSENT _____
23 SG:dp

1 SERVICE LIST FOR: STARTEC GLOBAL LICENSING COMPANY

2 DOCKET NO.: T-03794A-99-0592

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